

701—2.30(17A) Presiding officer.

2.30(1) Request. Any party who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections and appeals must file a written request within 30 days after service of a request for commencement of a contested case proceeding as provided in 701—2.28(421,17A).

2.30(2) Denial of request. The state board may deny the request only upon a finding that one or more of the following apply:

- a. There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare;
- b. An administrative law judge with the qualifications identified in subrule 2.30(4) is unavailable to hear the case within a reasonable time;
- c. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented;
- d. The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues;
- e. Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal;
- f. The request was not timely filed;
- g. The request is not consistent with a specified statute; or
- h. The state board based on its discretion may wish to retain the case due to the subject matter of the case or issues involved in the case.

2.30(3) Ruling on request. The state board shall issue a written ruling specifying the grounds for its decision within 30 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge with the qualifications identified in 2.30(4), the parties shall be notified at least 10 days prior to the hearing if a qualified administrative law judge will not be available.

2.30(4) Qualifications of the administrative law judge. An administrative law judge assigned to act as a presiding officer in a case in which the state board has original jurisdiction shall have the following technical expertise unless waived by the state board: The administrative law judge must be an attorney licensed to practice law in the state of Iowa and, based on the discretion of the state board, possess sufficient technical expertise in the area of taxation and related matters to be capable of rendering a fair and competent decision in such cases.

2.30(5) Appeal of proposed decision by the administrative law judge. Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer are subject to appeal to the state board. A party must seek any available appeal in order to exhaust adequate administrative remedies.

2.30(6) Review of interagency appeals. Unless otherwise provided by law, members of the state board, when reviewing a proposed decision upon interagency appeal, shall have the powers which apply to presiding officers.